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Response
Docket No. 4512/802/12
(Atty. No. 4126-4007)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Pharma Mar, S.A. et al.
Serial No.: 09/787,461 (PCT/GB00/01857; designating the U.S.)
Filed: 15 May 2000
Group Art Unit: 3644 - Licensing and Review Examiner: Yvonne R. Abbot
For: COMPOSITIONS AND USES OF ET-743
FOR TREATING CANCER

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**ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, DC 20231**

**REQUEST FOR RECONSIDERATION OF THE DENIAL OF PETITION FOR A
RETROACTIVE FOREIGN FILING LICENSE UNDER 37 C.F.R. § 5.25**

Applicant respectfully submits this request for reconsideration of the denial of Applicant's petition for a retroactive foreign filing license in accordance with the requirements of 37 C.F.R. §§ 5.25 and 1.181. Applicant's petition for a retroactive foreign filing license was filed on March 2, 2001. The decision denying the petition was mailed on March 1, 2002.

This request relates to the following patent applications:

GB 9911183.3 filed 13 May 1999
GB 9911346.6 filed 14 May 1999
GB 9918534.0 filed 05 August 1999
GB 9927005.0 filed 15 November 1999
GB 9927106.6 filed 16 November 1999
GB 0007637.2 filed 29 March 2000; and

PCT/GB00/01857, a PCT patent application designating the United States, filed in the United Kingdom Patent Office on Monday, 15 May 2000, claiming priority from the six UK patent applications noted above;

NON-PCT Filings based upon the six UK patent applications;

Argentina Application No. P000102321 filed 15 May 2000;

Chile Application No. 2000-1216, filed 15 May 2000;

Malaysia Application No. PI 20002107 filed 13 May 2000.

On March 2, 2001, applicant filed a petition for a Retroactive Foreign Filing License and a supporting declaration with the USPTO under 35 U.S.C. § 184. Applicant received a denial of his petition for a Retroactive Foreign Filing License from the USPTO on March 1, 2002.

Applicant has prepared and has attached hereto a Second Declaration Of Attorney Graham K. Ruffles addressing the issues raised by the Examiner in her denial. The declaration includes the following:

- (i) An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order.
- (ii) A showing that the license has been diligently sought after discovery of the proscribed foreign filing.
- (iii) An explanation and a showing of facts indicating why the material was inadvertently filed abroad through error and without deceptive intent without the required license under §5.11 first having been obtained.

In view of these submissions, Applicant respectfully requests reconsideration of the denial of Applicant's petition for a retroactive foreign filing license and further requests the issuance of a retroactive foreign filing license.

Should the Examiner wish to discuss any of the remarks made herein, the undersigned attorney would appreciate the opportunity to do so. Thus, the Examiner is hereby invited to call the undersigned at the number shown below.

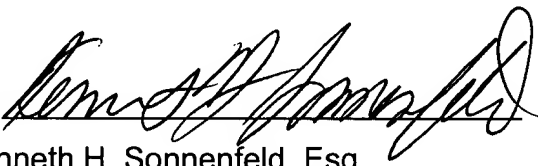
AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be associated with this request, or to credit any overpayment to Deposit Account No. 13-4500, Order No. 4126-4007.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition and for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 4126-4007. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: September 27, 2002

By: 
Kenneth H. Sonnenfeld, Esq.
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